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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,638

08/23/2006

Dieter Ramsauer

STR-1016/500638.20038

2249

26418

7590

12/22/2009

REED SMITH, LLP

ATTN: PATENT RECORDS DEPARTMENT

599 LEXINGTON AVENUE, 29TH FLOOR

NEW YORK, NY 10022-7650

EXAMINER

FULTON, KRISTINA ROSE

ART UNIT

PAPER NUMBER

3673

MAIL DATE

DELIVERY MODE

12/22/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,638	Applicant(s) RAMSAUER, DIETER	
	Examiner KRISTINA R. FULTON	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-52 is/are pending in the application.
- 4a) Of the above claim(s) 27, 30 and 35-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28, 29 and 31-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/18/09, 3/20/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This office action is in response to the amendment filed 8/18/09.

Information Disclosure Statement

The newly submitted IDS is considered.

Drawings

The newly submitted drawings are accepted.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 28-29 and 31-34 are provisionally rejected on the ground of nonstatutory double patenting over claims 44 and 52 of copending application no 10/587352.

This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: a latch having a head part, body part, and sliding holding elements (please note that plates are considered slides since the plates perform a sliding motion).

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 28-29 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 28 requires the holding elements to be in the cylinder 54. Although the figures now show 54 it is unclear from figures 2 and 3 how the cylinder differs from head part. Is the head part of the cylinder?

6. Claim 29 requires “a pressure spring force” yet no spring is claimed. Appropriate correction is required.

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7. Claim 31 requires the holding elements to be “flexible” yet further in the claim limit the material to a “rigid material”. It is unclear how the holding elements are “flexible” yet made of “rigid metal”. The claims have been examined “as best understood”.

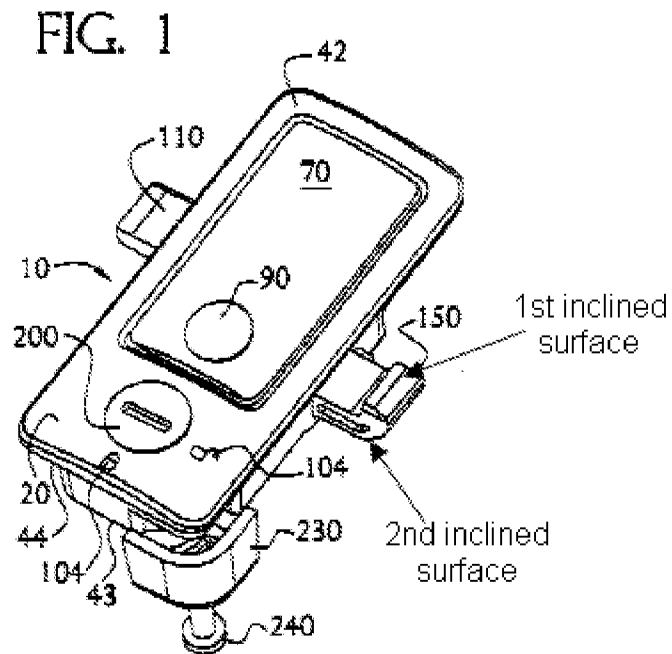
Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 28-29, 31 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Vickers (US 6145352).

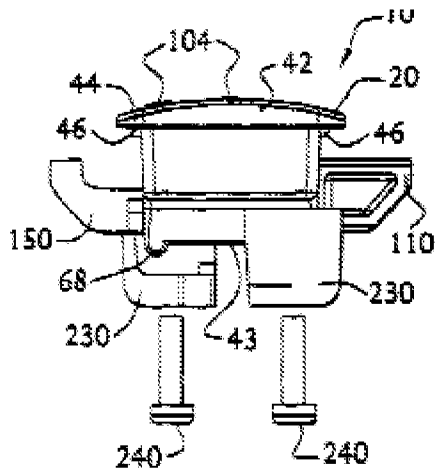
9. Regarding claims 28, 31 and 34, Vickers teaches a latch having a head part (42) arranged outside a thin wall, a body part (20 below 42) which proceeds from the head part and projects through the opening in the mounted position, holding elements (110 and 150) which project from the body part and are flexible in a direction, a free end of the holding elements being provided with an inclined surface (see figure below) for supporting the body part without play on the rim and said free end of said holding elements being further provided with a second inclined surface (see below) for slam action, the body part and the holding elements being separate parts and the holding elements being slides. Please note "as best understood" for the last limitation of claims 28 and 31 and claim 34, Vickers shows a lock cylinder (200) associated with holding elements (110 and 150). If applicant intends to call the head part of the cylinder then please note that applicant's "cylinder" is as much as cylinder as Vickers 10 shown in figure 1.



10. Regarding claim 29 “as best understood”, Vickers shows the slides are held against a pressure spring force (198) by a hook arrangement (tabs and slots seen in figures 9 and 10).

11. Regarding claim 31, Vickers teaches the claimed limitations as applied to claim 28 above and further teaches “as best understood” that a slides are held by a spring force (198) and a pin arrangement (tabs and slots of figures 9 and 10). See the Vickers device below.

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Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vickers as applied to claim 31 above and further in view of Anderson (US 5251467).

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15. Regarding claims 32 and 33, Vickers shows applicant's inventive concept of a latch with sliding holding elements but fails to show screws screwed into the head arrangement to regulate movement of the holding elements but Anderson shows this to be well known in the art. Anderson shows a screw (37) entering through a head arrangement which regulates the extent of movement of the holding elements 25 by holding spaces 35 against cam 41. Using screws to secure the sliding members of Vickers as taught by Anderson would have been obvious to one of ordinary skill in the art since replacing one known securing means (tab and slot of Vickers) with another known securing means (screw of Anderson) is considered to be within the level of ordinary skill in the art and would yield predictable results since the screw of Anderson has proven useful as a securing means in the prior art.

Response to Arguments

Applicant's arguments filed 8/18/09 have been fully considered but they are not persuasive. Vickers shows two inclined surfaces as labeled above. Please note that applicant should focus on structural differences as the prior art has the claimed structure and is capable of performing the claimed functional language (the "for" language). Applicant should not rely solely on functional language to define over the prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINA R. FULTON whose telephone number is (571)272-7376. The examiner can normally be reached on M-TH 7-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter M. Cuomo/
Supervisory Patent Examiner, Art Unit 3673

/K. R. F./
Examiner, Art Unit 3673
12/4/09